

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THOMAS KELLY, ) No. 24 C 5354

Plaintiff, )

vs. )

REYNALDO GUEVARA, et al., )

Defendants. )

----- )  
JOSE TINAJERO, ) No. 24 C 1598

Plaintiff, )

vs. )

CITY OF CHICAGO, et al., )

Defendants. )

----- )  
JOHN MARTINEZ, ) No. 23 C 1741

Plaintiff, )

vs. )

REYNALDO GUEVARA, et al., )

Defendants. )

October 10th, 2024  
11:05 a.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HON. SHEILA M. FINNEGAN, MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiffs

Kelly and Martinez: MS. ANNIE D. PROSSNITZ  
Loevy & Loevy, 3rd Floor,  
311 North Aberdeen Street,  
Chicago, Illinois 60607

Patrick J. Mullen, Official Court Reporter  
219 South Dearborn Street, Room 1412  
Chicago, Illinois 60604  
(312) 435-556

1 APPEARANCES: (Continued.)

2 For Plaintiff  
3 Tinajero:

MR. JOEL A. FLAXMAN  
Law Offices of Kenneth N. Flaxman,  
200 South Michigan Avenue, Suite 201,  
Chicago, Illinois 60604

5 For Defendant  
6 Guevara:

MS. ANDREA F. FABIAN-CHECKAI  
Borkan & Scahill, Ltd.,  
20 South Clark Street, Suite 1700,  
Chicago, Illinois 60603

8 For Defendant  
9 City of Chicago:

MS. EILEEN E. ROSEN  
Rock, Fusco & Connelly, LLC,  
333 West Wacker Drive, 19th Floor,  
Chicago, Illinois 60606

11 For Defendants  
12 Mingey, Vergara,  
13 Troche, Yanow, and  
14 Rogers:

MR. KYLE T. CHRISTIE  
The Sotos Law Firm, P.C.,  
141 West Jackson Boulevard, Suite 1240A,  
Chicago, Illinois 60604

15 For Defendant  
16 Rubinstein:

MS. MICHELE J. BRAUN  
O'Connor & Battle, LLP,  
111 West Jackson Boulevard, Suite 1700,  
Chicago, Illinois 60604

18 For the County  
19 Defendants:

MS. KELLI N. HUNTSMAN  
MR. DAVID A. ADELMAN  
Cook County State's Attorney's Office,  
500 Richard J. Daley Center,  
Chicago, Illinois 60602

21

22

23

24

25

1 (Telephonic proceedings on the record.)

2 THE CLERK: 23 CV 1741, Martinez versus Guevara, et  
3 al.; 24 CV 1598, Tinajero versus City of Chicago, et al.; and  
4 24 CV 5354, Kelly versus Guevara, et al., here for status.

5 THE COURT: Good morning, everyone.

6 Could counsel for plaintiffs Martinez and Kelly  
7 please say your name?

8 MS. PROSSNITZ: Good morning, Your Honor. This is  
9 Annie Prossnitz on behalf of plaintiff Martinez and plaintiff  
10 Kelly.

11 THE COURT: Thank you.

12 And counsel for plaintiff Tinajero?

13 MR. FLAXMAN: Good morning. Joel Flaxman.

14 THE COURT: Good morning.

15 All right. Counsel for the City of Chicago?

16 MS. ROSEN: Good morning, Your Honor. Eileen Rosen  
17 on behalf of defendant City of Chicago.

18 THE COURT: Good morning.

19 And counsel for defendant Guevara?

20 MS. CHECKAI: Good morning. Andrea Checkai on behalf  
21 of defendant Guevara.

22 THE COURT: Thank you.

23 Counsel for defendants Mingey, Vergara, Troche,  
24 Yanow, and Rogers --

25 MR. CHRISTIE: Good morning, Your Honor.

1 THE COURT: -- for the Estates of -- well, I don't  
2 know if I have to say those. You know who it is. Go ahead.

3 MR. CHRISTIE: Good morning, Your Honor. Kyle  
4 Christie on behalf of defendants.

5 THE COURT: And counsel for defendant Rubinstein?

6 MS. BRAUN: Good morning, Your Honor. Michele Braun  
7 on behalf of defendant Rubinstein.

8 THE COURT: All right. I don't know that we have  
9 Cook County counsel on the line. They're not required. Let  
10 me ask if anyone is here for Cook County.

11 MS. HUNTSMAN: Judge, Assistant State's Attorney  
12 Kelli Huntsman on behalf of Cook County.

13 THE COURT: Thank you.

14 All right. Let me -- did I miss anyone before I  
15 start?

16 MR. ADELMAN: Good morning, Your Honor. Assistant  
17 State's Attorney David Adelman on behalf of the Cook County  
18 State's Attorney's office. I'm not entirely sure if my  
19 presence is necessary today, but in light of the motion to  
20 compel that's pending and Your Honor's order about producing  
21 notes tomorrow, I figured I'd be here in case Your Honor  
22 needed me.

23 THE COURT: All right. Let me take that up first so  
24 I don't have you stay unnecessarily. I don't have anything to  
25 take up on the motion. As you can tell, it's been reviewed.

1 It's in process, and we'll get the in camera submission. So  
2 unless someone else has an issue they want to raise on that  
3 motion, I'm going to release you, and hopefully I will just be  
4 issuing an order with the ruling on the motion.

5 Anyone who wants to raise an issue on that pending  
6 motion, go ahead and speak up now, but otherwise attorney  
7 Adelman is released.

8 (No response.)

9 THE COURT: Okay. Thank you, Mr. Adelman.

10 MR. ADELMAN: Thank you.

11 THE COURT: All right. Let me start with the -- from  
12 the last hearing. Is there any update from defendant  
13 Rubinstein? I know on my May -- sorry -- August 27th order I  
14 directed him to review documents and privilege logs produced  
15 by the state's attorney's office and have further  
16 conferrals -- and maybe I should have kept Mr. Adelman on --  
17 if it appeared that the felony review materials that he seeks  
18 have not been produced or were not identified in the privilege  
19 log. Can I get an update on that issue?

20 MS. BRAUN: Yes, Your Honor. This is Michele Braun.  
21 We did talk to the state's attorney's office with David  
22 Adelman on that issue, and we're still working it out. There  
23 have been some ASA notes that have been produced. As far as  
24 whether or not they're a complete production, Mr. Adelman has  
25 represented that that is all the state's attorney -- sorry --

1 that the state's attorney's office has at this point.

2 THE COURT: All right. What are your next steps then  
3 in terms of what you're going to be doing? Maybe you're done.  
4 I mean, maybe he's checked and that's all they have.

5 MS. BRAUN: Well, he's represented verbally. We have  
6 asked him to indicate that in writing. As of yet, I have not  
7 received that.

8 THE COURT: All right. I'm going to ask a question  
9 at the next status because I want to make sure you -- that the  
10 depositions can go forward. I know your client wanted the  
11 opportunity to see those notes.

12 All right. Let me ask the next question, which is  
13 not specific to Mr. Rubinstein. I know there are a number of  
14 subpoenas for records. Some have issued, and that's good.  
15 But some maybe have not issued, and that's a concern. I want  
16 to just get an update.

17 Based on the joint status report, defendants are  
18 going to be issuing some subpoenas for medical and/or mental  
19 health providers of Kelly and Tinajero. What's the status on  
20 those, if I can have one of the defense counsel respond?

21 MR. CHRISTIE: Yes, Your Honor. We're going to issue  
22 the subpoenas for the mental health records once we receive --

23 THE COURT: All right, counsel. Let me have you  
24 state your name on the record.

25 MR. FLAXMAN: Oh, sure. It's Kyle Christie on behalf

1 of the defendant officers. We plan to issue those subpoenas  
2 for the mental health and medical records once we receive the  
3 final responses from plaintiff Tinajero, interrogatory  
4 responses identifying the providers, and those will be issued  
5 once we have that information. We've issued a few medical and  
6 mental health subpoenas for Martinez's records, so we're just  
7 continuing forward on that end.

8 THE COURT: I think based on the status report --  
9 and, Mr. Flaxman, you can correct me -- I think those records  
10 are going to be -- those providers are going to be identified  
11 very soon.

12 MR. FLAXMAN: I believe we already identified them --

13 THE COURT: Okay.

14 MR. FLAXMAN: -- but we can follow up if there's an  
15 issue on that.

16 THE COURT: All right. Yes, really anytime for  
17 medical records, I want to make sure those subpoenas get out.  
18 Of course, sometimes there's motion practice. So I'm going to  
19 have counsel confer after the call, and if there are providers  
20 who haven't been identified, then, you know, supplement with  
21 those. If defense counsel already has them, I want you to  
22 issue the subpoenas. Well, let's just say you'll issue the  
23 subpoenas within a week of getting the names in hand. Is  
24 there any problem with that, Mr. Christie?

25 MR. CHRISTIE: No, Your Honor. Actually, I haven't

1 taken a look at Mr. Flaxman's most recent interrogatory  
2 responses that he produced two or three days ago, so that  
3 might have been where they're identified. So we'll issue the  
4 subpoenas within a week or earlier.

5 THE COURT: Then I know the IDOC subpoenas are in  
6 process. You're waiting for the call logs, and then you're  
7 going to confer with plaintiffs' counsel. Are there other  
8 subpoenas that haven't gone out? I don't know if you're going  
9 to be issuing on the defense side subpoenas to defense  
10 counsel, for example, in the underlying criminal cases. Does  
11 someone know about that?

12 MR. CHRISTIE: Yes, Your Honor. This is Kyle  
13 Christie again. We have already issued our subpoenas to the  
14 underlying defense counsel, and we've received, well,  
15 responses, but nothing that's material. They didn't have any  
16 records available.

17 THE COURT: Okay.

18 MR. CHRISTIE: In regards to the other -- oh, sorry.  
19 Go ahead.

20 THE COURT: No. Go ahead and finish.

21 MR. CHRISTIE: In regards to any other subpoenas to  
22 issue other than the ones that we just identified, I can't  
23 think of any at this moment.

24 THE COURT: All right. So I'm just going to direct  
25 you to -- I mean, that's really important because subpoenas



1 take time. So go over your list. If there are any subpoenas  
2 that haven't issued that can be issued now, then I want you to  
3 also do that. I won't say seven days, but certainly in the  
4 next, let's say, 30 days any subpoenas should issue.

5 MR. CHRISTIE: Understood.

6 THE COURT: Let's talk about oral discovery. Is  
7 there an update on Officer Woodall? I know he was noticed for  
8 October 10th per the joint status report, but it's unclear  
9 who's going to be representing him.

10 MS. ROSEN: Judge, the City of Chicago has attempted  
11 to reach out to Mr. Woodall, and we (inaudible). So we  
12 informed plaintiffs' counsel of that. My understanding is  
13 they're trying to serve him with a subpoena, and my  
14 understanding based on email communications this morning is  
15 they do not have service yet. If they don't get service,  
16 we'll reach out again to see if he wants representation  
17 (inaudible).

18 THE COURT: Is there anything further from  
19 plaintiffs' counsel on that witness?

20 MS. PROSSNITZ: Yes, Your Honor. Annie Prossnitz on  
21 behalf of plaintiffs Martinez and Kelly. We have held the  
22 date of November 12th for his deposition, and we are working  
23 on serving him this week. So we should hopefully have proof  
24 of service to the defendants shortly.

25 THE COURT: Okay. All right. Are there any other

1 depositions that have been scheduled by any party?

2 MS. PROSSNITZ: Yes, Your Honor. We have scheduled  
3 two of plaintiff Martinez's damages witnesses for November,  
4 and defendants have provided dates for defendants' depositions  
5 in December as well as dates that work for the third-party  
6 witness.

7 THE COURT: All right. Anyone else want to address  
8 that topic before I go to the next one? If so, go ahead and  
9 speak up.

10 (No response.)

11 THE COURT: Okay. All right. I know I saw that just  
12 the other day Tinajero filed, that plaintiff Tinajero filed a  
13 motion to order Cook County to attend a settlement conference  
14 to discuss resolution of plaintiff's claims against Cook  
15 County and Jake Rubinstein.

16 Is there -- I don't think I've been contacted about  
17 having a settlement conference between Cook County,  
18 Rubinstein, and Martinez or Kelly. Is there a motion? Of  
19 course, we don't really order people to attend settlement  
20 conferences.

21 Can Cook County tell me whether I should have  
22 briefing on this or what your position is on this motion?  
23 It's noticed before Judge Alexakis, but it's really a  
24 discovery motion, I think.

25 MS. HUNTSMAN: Judge, at this time, Cook County does

1 not believe a settlement conference would be beneficial, and  
2 we would not agree to one. We are analyzing cases for  
3 settlement in regards to the other defendants Martinez and  
4 Kelly in this case. Those settlement discussions are part of  
5 a group settlement involving the same attorneys -- defense  
6 attorneys in multiple other cases. So I can say we are  
7 analyzing the Tinajero case for settlement, but we do not  
8 believe a settlement conference is necessary at this time.

9 THE COURT: All right. So what you're saying is you  
10 might be discussing possible settlement or having settlement  
11 discussions about Martinez and Kelly, but that's in  
12 conjunction with some cases that the Loevy firm is also  
13 handling?

14 MS. PROSSNITZ: Correct.

15 THE COURT: Okay. All right. Mr. Flaxman, anything  
16 you want to say on this? I mean, I really can't force people  
17 to. Of course, I would think Cook County would have every  
18 interest if they are settling Martinez and Tinajero --  
19 sorry -- and Kelly to settle Tinajero. The parties can  
20 certainly have those discussions, and I would not order a  
21 settlement conference unless we have willing parties on both  
22 sides. But is there any more you want to say on your motion?

23 MR. FLAXMAN: Yes. Well, it's an unusual motion. I  
24 understand that's what the Court is saying. I think it's an  
25 unusual posture where there's a settlement with two

1 plaintiffs, and then a third in the exact same position can't  
2 even get a conversation with the county. So, you know, we're  
3 not -- I think the motion makes it clear that the Court has  
4 discretion to order Cook County to come and talk about  
5 settlement. Obviously we're not asking the Court to order  
6 them to settle.

7           We filed it in front of Judge Alexakis because I  
8 wasn't clear on what the scope of the Court's referral was in  
9 terms of that, but we certainly think this is a unique case  
10 where the Court needs to get involved to force Cook County to  
11 take this seriously when they're treating these cases  
12 differently without any explanation.

13           THE COURT: Well, I did talk to Judge Alexakis about  
14 this, and so she asked me to handle this today. I am going to  
15 urge the parties to have settlement discussions. I'm not  
16 going to order you to talk. I mean, I could, but if you don't  
17 really have interest for whatever reason in having a  
18 settlement discussion now, my ordering them to do so is not  
19 really going to be productive, a productive use of anyone's  
20 time.

21           But I think you make a good point that given the kind  
22 of focus on Martinez and Tinajero -- sorry I keep saying  
23 that -- Martinez and Kelly because of these other Loevy cases,  
24 it would make sense to talk about this one, too, given the  
25 overlap. So I'm urging the parties to do that, but I'm

1 denying the motion to order them to attend a settlement  
2 conference. All right.

3 MS. ROSEN: Judge?

4 THE COURT: Go ahead.

5 MS. ROSEN: Judge, this is Eileen Rosen on behalf of  
6 the city. If I could get just some clarity here, it's my  
7 understanding that there is actually a settlement already in  
8 place between the county and plaintiff Martinez and plaintiff  
9 Kelly. That's the information that the city has been  
10 provided, and it sounds like that's the information  
11 Mr. Tinajero's counsel has been provided but it was unclear to  
12 me what he said. Ms. Huntsman can say if that's, in fact,  
13 true, and so we would like some clarity whether or not there  
14 is, in fact, a signed settlement with respect to plaintiffs  
15 Martinez and Kelly.

16 THE COURT: Well, let me ask. Obviously we have --  
17 I'm supervising discovery in cases that have been filed by  
18 Martinez and Kelly against Rubinstein and Cook County. Is  
19 there any reason Cook County can't respond and tell us if  
20 there is a settlement, whether signed or in principal or, you  
21 know, to be approved between Cook County and defendant  
22 Rubinstein -- sorry -- plaintiffs Martinez and Kelly?

23 MS. HUNTSMAN: My understanding, Judge -- and again I  
24 was not personally involved in any of these negotiations, but  
25 it's my understanding that there is a settlement in principal,

1 and I do believe at this point there will be a signed  
2 settlement agreement or that will be done shortly.

3 MS. PROSSNITZ: And that's my understanding as well,  
4 Your Honor. I also wasn't personally involved in the  
5 negotiations.

6 THE COURT: All right. Well, again, I would urge  
7 Cook County to talk to Mr. Flaxman. Maybe you can't settle,  
8 but certainly I would hope you would have a conversation. Let  
9 me ask Cook County's counsel. Is there any reason why you  
10 can't at least have discussions with Mr. Flaxman about  
11 possible settlement?

12 MS. HUNTSMAN: I see no reason why we can't have  
13 discussions, Judge. I was just instructed that we are  
14 analyzing multiple cases at this time for settlement.  
15 Mr. Flaxman's case is under consideration, so the individuals  
16 who will be handling the negotiations will reach out to him  
17 when we've completed our analysis.

18 THE COURT: Okay.

19 MR. FLAXMAN: And, Judge, the reason we filed the  
20 motion is because they're not doing that. They're not  
21 returning our calls. They're not talking to us. So I guess I  
22 would ask the Court, if you're not going to order them to come  
23 in for a settlement conference, to at least order a deadline  
24 for a substantive response to what we've sent them.

25 THE COURT: When did you send them your proposal?

1 MR. FLAXMAN: The original proposal we sent them was  
2 in May of this year. We tried reaching out to them once we  
3 learned about what's happening in the other cases starting on  
4 September 27th. So I'd perhaps say within seven days the  
5 county should give us a substantive response, but something  
6 reasonable to get this process going.

7 THE COURT: Yes, I don't know what's going on and if  
8 they're in -- you know, maybe they have some structured  
9 process that they're trying to follow. So without hearing  
10 from them, I'll just indicate that by the next status hearing  
11 I want to get an update on whether there have been discussions  
12 and whether they have responded. You know, the response could  
13 be, you know: We're still reviewing your case and the facts.

14 All right. Let me ask on the plaintiffs' side, first  
15 Martinez and Kelly's counsel, is there anything else you want  
16 to raise before we set the next status hearing?

17 MS. PROSSNITZ: No, Your Honor.

18 THE COURT: And, Mr. Flaxman, anything beyond what  
19 we've already talked about?

20 MR. FLAXMAN: Nothing else. Thank you.

21 THE COURT: All right. And counsel on the defense  
22 side, I won't read all the names off. Anyone have an issue  
23 you want to raise before I set the next status, or you think  
24 there's something I missed in the status report?

25 MS. ROSEN: Judge, just a deadline for --

1 MR. CHRISTIE: Judge --

2 MS. ROSEN: Sorry. Go ahead, Kyle.

3 THE COURT: Well, I'm going to set the deadline.

4 Sorry. Of course, I'm going to do that.

5 MR. CHRISTIE: Then nothing from the defendant

6 officers, Your Honor.

7 THE COURT: All right. So turning to the discovery  
8 deadline, defendants -- plaintiffs have suggested the date of  
9 December 31 to finish all fact discovery. That date is  
10 realistic only if I focus solely on the discovery that  
11 plaintiffs need to complete in that time frame. I don't think  
12 it's sufficient considering the totality of the discovery for  
13 all parties, such as the number of witnesses, number of  
14 non-party subpoenas, and likely the privilege and other  
15 objections that will have to be briefed and the Court will  
16 have to resolve.

17 The defendants have proposed May 31, 2024. I think  
18 that's two months longer than they previously proposed, but  
19 I'm going to adopt the date of March 31, 2025. Sorry. I said  
20 2024 a minute ago. I'm going to adopt May -- sorry -- March  
21 31, 2025, as the discovery deadline.

22 We'll continue to have monthly status hearings so we  
23 can make sure things are moving along at a good pace. Maybe  
24 with Cook County out of the case, that will eliminate some  
25 issues. Probably not, but we'll see. So I'll indicate that



1 date in today's order, and then the next status hearing will  
2 be in 30 days.

3 Mr. White, can you give us that date for them to  
4 check their calendars?

5 THE CLERK: Yes, Judge. Counsel, how is Tuesday,  
6 Tuesday, November 12th at 9:30?

7 THE COURT: No, let's go a little later because I  
8 have another hearing. Why don't we say 10:30. Anyone have a  
9 conflict? If so, speak up.

10 MS. PROSSNITZ: We have a deposition set in this case  
11 on that date, Judge.

12 THE COURT: Okay. How about the 13th at 10:00 a.m.?

13 MS. PROSSNITZ: That works for plaintiffs Kelly and  
14 Martinez.

15 THE COURT: All right. I'm going to assume, unless  
16 someone speaks up, that it works for everyone. I'll also make  
17 that a telephone hearing, but if there are issues to argue let  
18 Mr. White know. If anything gets filed and I know I want  
19 argument, I'll turn that to a video or an in-person hearing,  
20 but right now it will just be a telephone status.

21 All right. Thank you, everyone. Have a good day.

22 MS. ROSEN: Thanks, Judge.

23 MS. PROSSNITZ: Thank you.

24 MR. CHRISTIE: Thank you, Your Honor.

25 (Proceedings concluded.)

## C E R T I F I C A T E

I, Patrick J. Mullen, do hereby certify the foregoing is an accurate transcript produced from an audio recording of the proceedings had in the above-entitled case before the Honorable SHEILA M. FINNEGAN, one of the magistrate judges of said court, at Chicago, Illinois, on October 10th, 2024.

/s/ Patrick J. Mullen  
Official Court Reporter  
United States District Court  
Northern District of Illinois  
Eastern Division